VOLUME TWENTY. SEVEN

With this issue, the WILMINGTON JOUR NAL enters upon its Twenty-seventh annual volume. Never in its long career had its conductors more reason to be satisfled with its business and prospects than now. Each year it has strengthened and extended its field of operations.

1871 closes, to increase the size the paper, and improve it in many re spects. The details of these changes will be given hereafter. It is his determina tion to render the Journal every way worthy of the extensive patronage it is receiving, and make it indeed a household necessity.

THE unusually heavy pressure upon our columns necessarily crowds out severa advertisements, which should have appeared in this issue. We ask the indulgence of our advertising friends, giving them the assurance that their favors will have the requisite number of insertions.

Impeachment,

We trust none of our readers will fail to read the evidence before the Court of Impeachment published to-day. Out of his own mouth is the Governor convicted .-His letter to Kirk, providentially found, contains sufficient evidence to pronounce him guilty. It would seem that his conviction is a foregone conclusion.

This trial should be read by every citizen of the State, and of the United States

The New Delaware Senator.

There were many remarable circum stances in connection with the Senatoria election in Delaware. Although every member of the Legislature is a Democrat, Mr. Chief Justice and Senators: electing Eli over Gove by a vote of 16 to

14 Willard Saulsbury, 13 Gove Saulsbury....14 Eli Saulsbury 3

Impeachment.

We give elsewhere the several days proceedings in the Impeachment trial. We shall continue to publish as much of this great trial as our space will permit and as will be of interest to the general reader. Basides, by means of a special corres-

by the length of Major Sparrow's speech. That paper says :

Williamson and Col. McAllister in the habeas corpus cases were offered, much time was cen-sumed in arguing that it was not proper evidence. Wm. Larkins, Clerk of the District Court | in authority, the people mourn." of the United States, was put upon the stand that the evidence in the habeas corpus cases be read. When the Clerk had read some time, Col. Where none exist. As a party measure it McCorkle, for respondent, seeing the impatience would be fruitless of results, as the remov- 1869, already referred to. It embraces troops; an armed force not recognized by the court, said they would waive the reading.

with his register, to prove that Kirk and Bergen denies that his troops were from Tennessee. Mr. Moore, in violation of the rules of the Senate, undertook to discuss a motion. Mr. Gilmer made a point of order which silenced him. John Neathery, the Governor's Private Secre-

cost, the people can stand it to punish the man been so in all their history, from the 20th whose administration sunk them millions of day of May, 1775, of Mecklenburg mem-

"Save Me From My Friends,"

Instinct indicates their danger. When, therefore, we see a few pig-headed individuals exercising the same discretion -no ty, and certainly we cannot be accused of __adopted by them and cemented, with And they allege that the respondent, with complimenting their honesty. No cause, however grand or noble, however evil or the English bill of rights of 1689, incor- law, and to degrade the State and people. wicked-no leader, good or bad, but have porated by the framers of our organic law proclaimed the counties of Alamance and been cursed with followers who betrayed and habeas corpus, to be preserved in this them by military force, and suspended one or the other, when the man or the country? No less issues than these are civil authority, when he well knew that cause failed. Cowardice is not uncommon among men. We have in our minds eye men who followed the Confederate flag to the liberties bequeathed to us by our Eng the cannon's mouth, and afterwards, in the lish and American ancestors, or have we managers, a very important question for defeat, abandoned it and its friends for the adopted a higher law than these, the law the consideration of this honorable body. favoring smiles of its conquerors.

Governor Holden could not hope to escape the fate of ordinary mortals. He must expect, now that his career has ignobly culminated, and his guilt is being brought to light, that many of his followers, those who fawned upon him most in his heyday of power, will betray him in order to escape his ignominy and fall. We have been shocked already at the character of the evidence produced against the in our form of government have taken city or State.' Governor, mostly from his own letters, as place, fearful in its proportions and re- It will doubtless be argued here, as it by the law of the land. of his guilt, but we did not think at this fathers, instead of being as we had too the meaning of the word "insurrection," ed that these arrests were made? Is it the line of sentine is, but after his attempt the orders of said respondent. early stage of the trial that his own friends fondly supposed, real, substantial, built as used in the Constitution, is medified, under the provisions of the act of 1869- to approach the said window he saw the Mr. Sparrow [resuming]. Mr. Chief

pate d in its researches on account of being sick.

If the Com mittee reported facts [which he betieved they had done as far as they were able] it was ground sufficient to impeach any Governor,

Mr. Robinson said that as the precedent

ing the ground of this unauthorized issue of

the House from Rutherford county, and protested in the name of his people, with the small modicum of sense he possesses, against the passage of the resolution merely to place on foot the trial of the Governor. Now he talks as familiarly of impeachment

"As maids of thirteen do of puppy dogs." Rat-like he anticipates the danger, and intends to place himself in the "line of safe precedents." If the Governor is not guilty of "too much Ku-Klux" he de-The present Proprietor intends, before serves impeachment at least for "too much Holden did himself when he employed him, that Littlefield was a scoundrel. knew that the whole Radical State government was composed of a set of thieves, as well as Sam. Phillips did, when he consented to be used as their most available tool to fasten them upon the Public Treas- in the county of Orange, by the procureury for another term. It is too late now for Mr. Justice to talk of impeaching anybody for railroad frauds. He has voted to sustain these corruptionists since their guilt has been known to him. He deserves no credit for deserting his fallen friend. His discretion is not a whit superior to the instinct of the rat.

From the Raleigh Sentinel IMPEACHMENT

SIXTH DAY.

SENATE CHAMBER, Feb. 2, 1871. The Court met at 12 o'clock M., pursuant to adjournment. Honorable R. M. Pearson, Chief Justice, in the chair. Proclamation was made in due form by

the doorkeeper. The roll of Senators was called and a nucrum found to be present. of the Journal of the proceedings of yes-

terday be dispensed with. Prevailed. Mr. Sparrow, Chairman of the Board of the Managers, in substance as follows :

a Democratic caucus was held, and, strange The partiality of the Board of Managers 21. The hanging by the neck in Ala secretly murdered in the day time, and served upon the said Kirk, who upon being to say, the three candidates before it were has devolved upon me the responsibility of mance county, of William Pattern and Lu- that in Alamance county one man was se- informed of its contents declared "That he all Saulsburys, and brothers. All the making to the Senate, convened as a Court cian H. Murray, and thrusting into a leathmembers of the Legislature were present. and of the law as applicable to the facts A. Wiley. The following table shows the result of the on which they rely in support of the 3d. Unlawful warrants made by the acfour ballotings, the fourth and final one Articles of Impeachment preferred by the cused upon the Treasurer of the State, for and in every month in the year? Why the Court had been appointed to try them House of Representatives against the Gov. large sums of money, for the unlawful pur. should the secret murder of Stephens in (the prisoners,) and that he would surrenernor of the State, and upon which they pose of sustaining and maintaining the Caswell, or of Outlaw in Alamance, con- der them on Governor Holden's order, but

raignment of the chief executive officer of the unlawful purpose of paying the armed out secret crimes? Have the men who writ, and asked whether Kirk "acted under a State, by the people of a State, through men before mentioned—caused and pro-the representatives of the people at the cured said Treasurer to deliver to one A. any peculiar aptitude or fitness for such sused replied that "Col. Kirk made the meanors in office. It is an accusation pre- be paymaster, the sum of forty thousand law? The men sent to these counties were named, by my order. He was instructed ferred by the people of North Carolina dollars; that the Honorable Anderson peculiarly qualified for the perpetration of firmly but respectfully to decline to deliver against the Governor of North Carolina, Mitchell, one of the Superior Court Judges, outrages upon the persons of unoffending the prisoners." for an alleged invasion of their rights as on application to him made, issued writs citizens, and of suspected persons, and by The Chief Justice, in announcing his pondent, we shall keep our readers posted their liberties. It is a charge preferred by them from paying said money to the said fessions from unwilling or innocent witches the privilege of the writ of habeas corpus has not been of the writ of habeas corpus has not been advance of the publication of the proceed- their suffrages to the highest office within ed and procured the said A. D. Jenkins, The civil authorities are more compe-The Sentinel briefly epitomizes the eviwho was sworn to support and maintain another agent of the accused, to wit one
than the military. Especially must this to be in a state of insurrection, to take
the law, has become himself a violator of John B. Neathery; and thereupon the acbe true if the military must do as the law military possession, to order the arrest of On Friday, when the returns of Col. George and disorderly to punish the innocent and purpose of paying the expenses of, and were, we expect to show by the evidence, unoffending, verifying in his person the keeping on foot the illegal military force companies of the United States troops sta. citizen otherwise than by jury. According Scriptural maxim, "When the wicked are aforesaid.

and, perhaps, the disgust felt by a majority of al from office of the present incumbent acts which amount not only to misconduct the Constitution of the United States, nor successor, one of his own party, the Lieu- embraces, also, acts which are criminal in Carolina. registered as from Tennessee. This was object- tenant Governor, who is far less obnoxious law, and will subject the effender to inthe uprising of an outraged and oppressed bring his office into public contempt? people, to vindicate the violated law.

ory, to the present time. The cause which they seek to vindicate before this tribunal, is not theirs only, but the cause of all peo-Rats are said to leave a sinking ship. | ple who seek to preserve the forms of constitutional government, and civil liberty. their blood-are these great principles of intent to incite war, subvert liberty and into that instrument-of the great charter | Caswell to be in insurrection, occupied involved in this proceeding! Do we live such proclamation was groundless and in the enjoyment of constitutional free. false, and that there was no insurrection in dom? Have we preserved, unimpaired, said counties.

powers of constitutional freedom? Mr. Chief Justice, when those in whose of liberty have been violated, by their un-

ble offences. Besides numerous other authorities, he cited the bearings of the acts

Supposing that the Legislature by this
thorities, he cited the bearings of the acts

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the law cannot prevail in North Carolina. The beloading their muskets. They approached write of his office and obeyed as the Chief Executive Magistrate of this great Commontestimony was debated at length by counof our own Assembly of 1868 and '69 upon Act, intended to modify the common law It is a civil writ issued by the judiciary halted, and in a few moments returnd to wealth. the subject of impeachments, the sixteenth meaning of insurrection, and to give a par- and served by a civil officer. Martial law the Court House, and just after a squad of But if he be guilty it is expected and the Senator Moore insisted that the evidence section of which provides that "every tial definition of it, which intention we do suspends all civil authority and therefore seven men, armed with muskets, and under people of North Carolina demand of her be read in full. officer in this State shall be liable to im- not mean to concede, then two questions the writ cannot ran.

against the accused. rection," whereas there was no insurrecrests of peaceable citizens, whom he im- itself is a nullity. He prisoned, beat, hung by the neck, and otherwise maltreated.

Article II charges that he did the same in the county of Caswell. Article III charges the unlawful arrest and imprisonment of Josiah Turner, Jr.

ment and order of the accused Article IV charges the unlawful arrest three other citizens, in the county of Cawell, by the procurement and order of the

Article V charges the unlawful arrest and imprisonment, in the county of Alacorpus, to the civil authorities.

lawfully organized into an army and commanded by George W. Kirk and others as tions of their offices. The Justices' courts sons purporting to be soldiers, acting unofficers, and the refusal of said Kirk, by were open the courts of the Probate der the order of one George W. Kirk, surrender the said citizens, unlawfully held istration of deeds and conveyances were by said Kirk that his arrest was without Senator Lehman moved that the reading ties in obedience to the will of habens cor- the process of the courts undisturbed, - prayed the Chief Justice to grant him the

Article VII, charges, Managers, opened the case on the part of army of desperate men, commanded by of men to the officers of the law. Kirk, Bergen and Yates, all desperadoes Is it a sufficient answer to all this to say, writ was granted as prayed for on the same cers is punishable by impeachment.) from the custody of Kirk, was read. from the State of Tennessee.

of Impeachment, a statement of the facts, some dungeon Josiah Turner, Jr., and F. and others secretly whipped? How do they had played out—that he was acting

bar of the Senate, for crimes and misde- D. Jenkins, appointed by the accused to duty more than the sworn officers of the arrests, and now detains the prisoners

Those who may imagine that this im- meanors, Mr. Chief Justice and Senators, after the organization of these forces.

In the commission of these offences the Mr. Chief Justice and Senators, the peo- accused has not only violated the act of ganized by Governor Holden, and sent the said write, on the 27th of July, 1870; ple of North Carolina have always been the General Assembly, before mentioned, into the counties of Alamance and Caswell? that the prisoners above named were, as filed July 16th, 1870. That of John Kerr tary, was called and sent for three several times distinguished for their obedience to law and but also the fundamental law of the land We are propared to prove that these men he was informed, confined in the Court

> We allege that he has violated the following sections of article 1st of the Consti-24 of said declaration.)

Mr. Chief Justice and Senators: The first and second Articles of Impeachmnt more—than that displayed by these brain—the cause of New York and Missouri as well as of North Carolina. The question is a great question—the issues are momen
less quadrupeds, in anticipating certain is a great question—the issues are momendestruction, we are not to be suspected of tous issues. Are the principles of liberty whenever the execution of the law shall be

This raises, as it seems to the board of of tyrants and of temporary majorities to wit : the precise meaning and import of which override and subvert, at will, the the word insurrection, as used in the Constitution of the State of North Carolina. (The honorable Speaker then defined the that no such thing as a constructive insurlawful arrest and imprisonment, shall have rection can exist, in the face of expressed appealed to the Judiciary for relief in vain authority, constitutional and statute, de- bis agents? -when the people through their repre- fining what is required to constitute an

Ith, Drunkenness in any public place; 5th, vested in the Governor by the Act of As- law. Mr. Justice is a Republican member of heard the duties of his office; fith Any county to be in a state of incompetence to discharge the duties of his office; 6th, Any county to be in a state of insurrection, arrested in the county of Orange, which criminal matter, the conviction whereof when there was no insurrection. For the had not been proclaimed to be in insurrecwould tend to bring his office into public abuse of such authority, even if it were tion, and therefore the respondent is de contempt. After showing the bearing of properly bestowed, would be not be prived of even this shallow pretext for the law upon the conduct of the Respond- ameanable to the Court of Impeachment ? justification. And his plea that he did not ent. Mr. Sparrow went on to state the na- These questions carry with them their order his arrest in that county, but only in ture and character of the offences prefer- own answers. It is not within the pro- the counties of Alamance and Caswell. red in the Articles of Impeachment against vince of the Legislature to construe and cannot avail him, as he confesses that when declare the meaning of Acts of Assembly informed of the arrest, he authorized the And this brings us to a brief statement which had become law, except in certain detention of the prisoner, thereby giving of the nature and character of the offences exceptionary cases. | See Houston vs. his sanction to his arrest, as though it had preferred in the articles of impeachment Bogle, 4 Iredel 496, and cases cited] This been made by his order in the first inis the peculiar province of the courts .- stance. Even the rights of war are not to Article I charges, substantially, that the Much less is it within the power of the Le- extend beyond the place where the insuraccused corruptly and wickedly declared gislature by any acts of theirs to declare rection exists; nor to persons not connected the county of Alamance to be in "insur- the meaning of an article in the Constitu- with it; nor even within the scene, to pertion; and if it cannot define, how can it sons or property of citizens against whom Littlefield." Fie upon such contemptible tion; that he took military possession of altar, modify or abridge its meaning? If no probable cause exists. |See Luther vs. cowards! This Radical reformer knew as the county by armed bands of lawless and such was its purpose, which is not be- Borden, 7 Howard, p 84. well last year as now—he knew as well as desperate men, organized without lawful lieved, in passing the Acts of 1869-70, its As conclusive of this whole matter the authority; and that he made unlawful ar- action was unconstitutional, and the Act Chief Justice in ex parte, Moore, decided

article thereof a construction which it will | Corpus case, p. 33. | not bear - pronounce that to be insurrection which is not insurrection, and so en- and imprisonment of Adolphus G. Moore, therefore, that in this investigation it will refusal of George W. Kirk, acting under and imprisonment of John Kerr and not be competent to give in evidence, any the orders of the respondent, to surrender state of facts, which do not go to make up them to the judiciary for examination in insurrection as already defined.

plus G. Moore, and the refusal of George of an insurrection. There were no upris his authority. W. Kirk, acting under and by the authority | ings of the people to resist the enforcement | Section 21, of the declaration of rights. Moore, in obedience to the writ of habeas people of those counties were in complete habeas corpus shall not be suspended." subordination to lawful authority. The Adolphus G. Moore, a citizen of Ala-Article VI charges the arrest of John business of the country was not interrupted. mance, filed his petition before Chief Jus-Kerr and eighteen other peaceable citizens | The farmer was in his fields-the mechanic | tice Pearson at chambers, on the 16th of of C swell county, and their detention and was in his workshop-the merchant behind July, 1870, in which he alleged that on the imprisonment under the orders of the ac- his counter-the minister of the Gospel in 15th day of July, 1870, while he was about cused, by a large band of armed men, un | the pulpit. The officers of the law were his lawful business in said county, he was in the undisturbed exercise of all the func- arrested and detained by a squad of perthe order and command of the accused, to Judges were open-the offices for the reg- That bail was offered by him and denied by him as prisoners, to the civil authori- open the sheriffs and constables executed warrant and for no cause, and he therefore

their gift, to be a terror to evil doers, has paymaster, to disobey the injunction of tent and better qualified to detect and that the Governor has power under the himself become a doer of evil-that he the Court, and to deliver the money to bring to justice secret violators of the law Constitution and laws to declare a county the law—that he whose sworn duty it was cused ordered and caused the said John requires, turn over offenders when arrest- all suspected persons, and to do all things to protect the innocent and punish the guilty, has made instruments of the wicked money so delivered to him, for the illegal if military aid had been wanting, there he has no power to disobey the writ of tioned in both these counties, sent there to the law of the land, such action would This enumeration of crimes and misde- by the Governor of the State before and be in excess of his power."

Mr. Sparrow then cited numerous aued to, but admitted by the Court. The register to the people. It is a movement, Mr. dietment before the Courts; and who will thorities to show what constitutes lawful pus in behalf of all the persons above The habeas corpus should be suspended at writ had better be first read, when showed that Kirk and Bergen registered from Chief Justice and Senators, which rises say that a conviction thereof will not only troops or militia, as meant by the Constinated by Richmond M. Pearson, once." far above all party considerations. It is not tend to bring, but will not actually tution and laws of this State and United Chief Justice of the State, were placed in

Was this the character of the force orbut could not be found. At the last calling the doorkeeper stated they were hunting him up, as if he thought John was hiding.

This delay cannot stated the were not organized as militia under the above all others, they are these. It has been so in all their love of liberty. If they possess any which he has sworn to support and main—were not organized as militia under the militia laws, but were raised as an indestant of their love of liberty. If they possess any which he has sworn to support and main—were not organized as militia under the militia laws, but were raised as an indestant of their love of liberty. If they possess any which he has sworn to support and main—were not organized as militia under the militia laws, but were raised as an indestant of their love of liberty. If they possess any which he has sworn to support and main—were not organized as militia under the militia laws, but were raised as an indestant of their love of liberty. If they possess any which he has sworn to support and main—were not organized as militia under the militia laws, but were raised as an indestant of their love of liberty. If they possess any which he has sworn to support and main—were not organized as militia under the militia laws, but were raised as an indestant of their love of liberty. If they possess any which he has sworn to support and main—were not organized as militia under the militia laws, but were raised as an indestant of their love of liberty. If they possess any which he has sworn to support and main—were not organized as militia under the which he has support and main—were not organized as militia under the which he has support and main—were not organized as militia under the which he has support and main—were not organized as militia under the which he has support and main—were not organized as militia under the which he has support and main—were not organized as an independent of the law of the tution of this State, known as the Declaration of Rights: (Read sections 17, 21 and that the Colonel, Lieutenaut Colonel, House square, when he was stopped at the pose to convene the same the first week in part of the ordinary business of the Mar. all men of desperate character from the State of Tennessee. And very many of the men recruited were under and over the the men recruited were under and over the the men recruited were under and over the the the Adiptent; he asked affiant to the the Adiptent of the United States, and the concluding paragraph in the men recruited were under and over the total total the state of the United States, and the concluding paragraph in the state of the United States, and the concluding paragraph in the state of the United States, and the concluding paragraph in the state of the United States, and the concluding paragraph in the state of the United States, and the concluding paragraph in the state of the United States, and the concluding paragraph in the state of the United States, and the concluding paragraph in the state of the United States, and the concluding paragraph in the state of the United States, and the concluding paragraph in the states of the United States, and the concluding paragraph in the states of the United States It is the cause of all free people, and of all people struggling to be free the world over the State, nor in the acts of 1868, nor in the Shoffner act of 1869 '70, is there any had a communication for Col. Kirk; he asked the nature of it; affiant told him he under your orders, shall demand them." ized by the Constitution of the State, but 1st article of the Constitution of the United affiant what was the nature of the commuwithout the consent of Congress, keep Kerr and three others in the county of the said Yates finally said Col. Kirk was Caswell, without any lawful warrant or au- bosy, but might see him in half an hour. dence. thority.

Was the arrest of these men unlawful persons the rights of freemen and the law word, citing various authorities,) showing or having been made without his order. were they detained and imprisoned with his knowledge, approval and consent by

sentatives shall have called upon the Sen- insurrection; which, as he states, "a North Carolina declares that, "No person yards and took his seat under a tree. He the Board of Managers to read a statement that McAllister was not an officer. ate sitting as a Court of Impeachment for rising against civil or political authority; ought to be taken, imprisoned or disseized saw two persons standing at an upper of facts which has been prepared and redress in vain—then indeed will our lib—the open and active opposition of a number of his freehold, liberties or privileges, or window in the Court House, one of whom, which we shall substantiate by the evi- Justice had decided the matter, and had erties have departed; then will a revolution of persons to the execution of law in a outlawed, or exiled, or in any manner de- he was informed, was Col. Kirk; and dence.

temple of liberty reared for us by our chambers in the habeas corpus cases, that Constitution, by what authority is it claim- ately retired; effiant had not gone within pondent, while engaged in carrying out During the debate in the House of Rep- similar fabrics of old, by the strong hand section of that Act authorizes and em- they were intended to confer that authori- floor; he seemed to be giving orders or in- do not desire the conviction and deposi- could not be served by any but one of the resentatives on Monday we find the follow- of power and the "necessity" pleas of powers the Governor "whenever in his ty such provisions would be unconstitu- structions to the soldiers on the State without the Mr. Justice arose to a question of privilege.—
He said, in regard to the report of the Special founds to the Western Division of the Grand Division of the Chief Dustice in Division of the Western Division of the Western Division of the Western Division of the Grand Division of the Chief Dustice in Division On Dustice In Division On Dustice In Division of the Chief Dustice In Dustice In Dustice In Dustice In Dustice I

that as a means to suppress insurrection, The Legislature cannot give to the Con- "the detention of the petitioner as a milistitution a meaning not intended by the tary prisoner is not a proper means, for framers of that instrument-put upon an it violates the bill of rights." |See Habeas

Articles five and six charge the arrest courage a violation of law of the land and of Alamance, and John Kerr and seventeen the liberty of the citizen. We shall insist, others, citizens of Caswell county, and the obedience to the writ of habeas corpus. We are prepared to show, on the con The respondent acknowledges that said trary, that there was nothing in the condi- prisoners were detained by his orders and tion of the counties of Alamance and that the refusal to deliver them in obedimance, by order of the accused, of Adol- Caswell which goes to fulfill the conditions ence to the exigencies of the writ was by war."

of the accused, to surrender the said of the laws or the officers of the law. The declares that "the privilege of the writ of

regular terms of the Superior Courts were writ of habeas corpus, to be directed to the 1st. The unlawful organization of an is known, was there resistance by any body forthwith the petitioner before His Honor together with the cause of his arrest. The that in Caswell county a State Senator was day. On the 17th dap of July it was duly these cases vary from similar ones occur- under orders from Governor Holden, with expect to urge before this honorable body lawless bands of armed men organized as stitute insurrection in those counties, more than the secret murder of Nathan in This return having been made to the The spectacle exhibited in this Senate Article VIII, charges that the accused, the city of New York should put that city Chief Justice on the 18th day of July, he

secured to them by the Constitution and of injunction which were served upon the threats, intimidations, hanging by the decision on a motion for the arrest of laws of the land, and the subversion of said Treasurer and Paymaster, restraining neck, and other like means to extort con- Kirk for contempt of Court, said : "I desuspended by the action of His Excellency; hvbeas corpus, or to order the trial of any

Writs of habeas corpus were also issued and remained half an hour before he was allowed to speak of certain papers in his possession, deposited by Judge Brooks in his office. The respondent's counsel, instead of admitting, required proof of Judge Pearson's handwiting as
office one who has made himself politically braces all the offences of which a person force organized, armed and equipped by There writs were placed in the hands of well as that of Judge Brooks and Gov. Holden. obnoxious to them, greatly under estimate is liable to be impeached, as set forth in the case, and impute unworthy motives the first and sixth sub-divisions of the said, as a juror, the case, and impute unworthy motives the first and sixth sub-divisions of the said Kirk. On the 29th of July said Wil-

"George Williamson makes oath that, Mr. Rutjes, of the National Hotel, was called would place in the executive chair as his in office," It by the Constitution and laws of North he is a citizen of the county of Caswell, and a qualified elector of the State of his hands, for service upon George W. Kirk. That he went to Yanceyville with pendent volunteer force, recruited mainly that for the purpose of seeing the said from one locality in this State and an ad- George W. Kirk, and serving the said and Major of one of the regiments were gate thereof by a sentinel at the said of another person with affiant, which was was organized in express violation of the given him. The said Yates then asked him they were writs of habeas corpus issued mediately, then it was for the first time, The third and fourth articles of im- writs from his pocket at the time which he that it had all along been his intention to tention and imprisonment, by order of the told affiant that he would have nothing to safety of the State should justify it," an-Jr., in the county of Orange, and of John could not see Colonel Kirk. He,

Affiant then retired to the piazza of a store, Then it was, that for the first time, he square, afficat again went to him, and meantime thrusting them into jail. could see him. He replied that Col. Kirk charges contained in the eight and ninth of Mr. McAllister, that he served the prorefused to have any communication with articles of impeachment. Section 17 of the declaration of rights of affiant. Affiant then retired some fifty I will here ask one of my associates on prived of his life, liberty, or property, but affiant then attempted to approach the

established, he would suggest to the gentleman Habitual drunkenness; 31, Intoxication surrection ? In of liberty than the exemption of citizens then left, and made no further attempt to become the proud boast of the citizen while engaged in the exercise of the discretionary power from arrest, except by due warrant of deliver the cold walls to the cold while engaged in the exercise of the discretionary power from arrest, except by due warrant of deliver the said George our liberties be perpetuated, and our be-W. Kirk.

GEORGE WILLIAMSON. Sworn and subscribed before me this the 29th day of July, A. D. 1870. W. H. BAGLEY, Clerk.'

Mr. Chief Justice and Senators the un lawful conduct of the respondent, complained of by the people, cannot be put in a stronger light than by reference to the effect produced by the soldiers organized by his orders, and sent into the counties of Alamance and Caswell. The desperate men not only arrested innocent and unoffending citizens, some of them men like John Kerr and Samuel P. Hill, whom the State had honored with high offices and who had proved themselves not unworthy | tice Pearson presiding. of the confidence bestowed, but they defied and thwarted the action of the Judiciary of the State, (always heretofore the bulwark of civil liberty,) in affording relief to the prisoners. Is not the fact notorious that the Chief Justice, having issued the writs as prayed for in the case of pensed with. Moore and others, having ordered the production of the prisoners before the court, resumed by the prosecution. Mr. Bagand when this order was disobeyed, the ley testified that the papers then before court declined to adopt the usual and neces- the Court (in reference to the habeas corpus sary orders to enforce obedience to its cases before Judge Pearson last summer) mandate! And for what reason? Let were the papers placed in his charge by the court speak for itself :

"It is highly probable, nay in my opin- Judge upon them were genuine signaion certain, that the writ in the hands of tures, &c. the Sheriff (with authority to call out the Mr. Boyden, counsel for respondent, power of the county) by which he is com- stated that if the other side proposed to manded if necessary, to take the petitioner read what he (Chief Justice) in his judiout of the hands of the military authori- cial capacity had signed, they had no obties, will plunge the whole State into civil jection, but they (prosecution) could not

right by the Judiciary of the State would and sworn to, &c. He supposed the other have brought on a conflict with the mili side intended to read the whole of the patary organized by the Governor, and there- pers, therefore, they would now raise the fore they decline to enforce the writ. The point. Governor, by his military, not only estab- Mr. Merrimon, counsel for the proseculished a terrorism over the people, but he tion, said they intended to read from the silenced the voice of the Judiciary.

would be aesponsible for the abuse of that The petition of John Kerr, S. P. Hill, held, and at no time and no place so far as said Kirk, commanding him to produce is known, was there resistance by any body forthwith the petitioner before His Honor (Here is read authority showing that zens of Caswell county to Judge Pearson abuse of discretionary power by public offi- for a writ of habeas corpus to release them

The respondent in his answer to article Mr. Merrimon, V, says : "It was his purpose to detain davit of E. B. Holden read. the said Adolphus G. Moore and the other Mr. Boyden wished to know before persons so arrested in the said counties of whom it was sworn to. time as he might with safety to the State surrender them to the civil authorities." first proven.

we shall put in evidence. These facts will fore a judicial officer, and there being no also tend to show the animus of the respon- objection at the time that it was not made dent in these proceedings, and deprive him upon proper evidence or upon proper ser Chamber to day is without precedent in the annals of our country. It is the arthe annals of our country. It is the arthe annals of our country. It is the arthe President of the United States, and wise in offering evidence of a judicial prowhat follows is an extract from his letter. | ceeding it would be necessary to produce

"If Congress would authorize the sus- bunal that were before the original, &c. pension, by the President, of the writ of Mr. Boyden understood this to be the abeas corpus, in certain localities, and if case as to a Court of record and the doceriminals could be arrested and tried be-fore military tribunals, and shot, we should Our Courts had always required suits soon have peace and order throughout all brought upon a judgment before a magisthis country. The remedy would be a trate, that the handwriting of the magisof the writ of habeas corpus has not been sharp and a bloody one, but it is as indis- trate issuing the warrant be proved. If pensable as was the suppression of the re- it is returned before a different magistrate,

Ou the 14th of March, 1870, he wrote to always been required to prove his hand the "Senators and Representatives in Con- writing, &c. gress" and says: "I have been compelled The Chief Justice said it was not the reto declare the county of Alamance in a turn that was offered but the affidavit necstate of insurrection. I have called on essary to take out the writ. the President for aid. But he is restricted Mr. Boyden said he had labored under a by the writ of habeas corpus. We want mistake, but his remarks would apply to military tribunals by which assassins and the offer of the return when made. murders can be summarily tried and shot; The affidavit, made when the petition but we cannot have these tribunals unless for the writ of habeas corpus was made in the President is authorized to suspend the behalf of the Caswell prisoners, was read. habeas corpus in certain localities. Please aid in conferring this power on the Presi- tition of P. H. Williamson, arrested by dent, as the only effectual mode of pro- Kirk for serving a writ of habeas corpus tecting life and property in Alamance and upon him, to Judge Pearson for a writ of other localities in this State."

appeals to Mr. J. C. Abbott, U. S. Senator "What is being done to protect the good citizens in Alamance county? We have federal troops, but we want power to act.

Is it possible the government will abandon North Carolina; that writs of habeas cor- its loyal people to be whipped and hanged? So much as to the animus of the respondent. Now as to his purpose to re- behalf of John Kerr; also, the instructions

lease the prisoners. The petition of Adolphus G. Moore was pended to it, in regard to its service. and others on the 26th of July, 1870.

We propose to show by the correspondence of the respondent, that he had, at that there was no return of any officer, but this very time, provided for the calling of of a private individual. If this were a a military court to try the prisoners then precept directed to any known officer, his pose to convene the same the first week in part of the ordinary business of the Mar-

provision for the character of troops raised by the respondent and commanded by the respondent and commanded by the first then entered the Court House, and a Chicago Brooks, of the United the return of such officer having been regiving them any credit for superior sagacitv. and certainly we cannot be accused of cept in the name of the President of the United States, directed to Kirk, commanding him to produce the prisoners before States, which declares that "no State shall, nication he had for Col. Kirk. Affiant told him at the Court House in Salisbury, impeachment charge t e unlawful arrest, de. wished to serve upon the said Kirk. Ho surrender the prisoners, "as soon as the respondent, as Governor, of Josiah Turner, do with them-and that he, affiant, nounced, for the first time, in his letter of August 15th, 1870, to the Chief Justice, the Chief Justice, for a writ of habeas which letter we propose to put in evi- corpus, was then read. Also the affidavit

> in view of the Court House. Some half ordered George W. Kirk to obey the writs Was it made by order of the respondent; an hour or more afterwards, seeing the of habeas corpus, having protracted their said Yates at the gate of the Court House imprisonment until the very last hour, asked him what Col. Kirk said, whether he [Then Mr. Sparrow recapitulated the

Mr. Manager Johnston read the state- to law, that the particular facts exist and

the command of the said Major Yates, Senators a fearless vindication of the maj- The Clerk read the opinion of Chief

amending the articles of impeachment had been misconduct in his official capacity; 2d, lature the right to declare that to be in- and Senators, is better settled in this land leave, or he would be fired into; affiant freedom and personal liberty may again surrection which is not insurrection? In of liberty than the exemption of citizens, then left and made in the exemption of citizens. loved North Carolina continue to be the pride and glory of her children, long years after these granite walls, within which we

sit, shall have crumbled into dust. Then followed the introduction of doon mentary evidence, consisting of the oath of office of the Governor, the letters and orders of Gov. Holden, the pay-rolls of the Kirk army, &c. Interesting debates were

precludes more of the proceedings.] SEVENTH DAY.

elicited upon the question of the admis-

sion of certain documents as evidence.

The full report of Mr. Sparrow's speech

The Court met at 12 o'clock, Chief Jus-The proceedings were opened with the

usual preliminaries. The roll was called and a quorum was ascertained to be present. On motion of Senator Graham, of Orange, the reading of journal was dis-

The examination of W. H. Bagley was Judge Pearson, that the signatures of the

read the returns without proving the off-So the enforcement of the great writ of cer before whom the returns were made

copy as it was more convenient. The respondent claims that he was au- The Chief Justice had read to the Court thorized to call out the militia to suppress a communication from Abbott, Pool and insurrection and to make arrests, and that O. H. Dockery in reference to the subhe is sustained in this by the Judiciary. | poens served upon them. The communi-And so he had power under the laws to cation set forth that their duty as Conexecute the laws, suppress riots or insur- gressmen would not admit of their coming rection and repel invasion, had such a in person, and suggested that their evistate of things existed, but no such state dence be taken before some commissioner

Alamance and Caswell, only until such Mr. Merrimon replied, L. D. Harrison, Mr. Boyden objected unless it should be

Mr. Graham, for the prosecution, did We propose to test the truthfulness and not so understand the rules. They undersincerity of this declaration by facts which stood that when the return was made be On the 10th of March, 1870, he wrote to has ratified is ratified elsewhere, other all the witnesses before the revising tri-

and that magistrate gives judgment, it had

Mr. Manager Dunham then read the pe habeas corpus, asking for a release from the

And on the 17th of the same month he custody of Kirk and a hearing. Mr. Merrimon now wished to offer the return in evidence. Mr. Boyden objected to its admission.

Mr. Graham insisted that it was competent where a judicial officer had taken cognizance. The Chief Justice suggested that the Mr. Manager Dunham read the writ of

habeas corpus issued by Judge Pearson, in to the Marshal of the Supreme Court ap-Mr. Merrimon wished the return of that

Mr. Boyden objected, on the ground

chambers.

Mr. Boyden and Mr. Graham further argued the point, when The Chief Justice decided that the return made to the Chief Justice might be troops or ships of war in times of peace." by Chief Justice Pearson (taking the said that the respondent made the discovery read without further proof, the Chief Justice having passed upon it at the time. Mr. Manager Dunham then read the return.

The petition of Adolphus G. Moore, to of E. S. Parker, stating, to the best of his knowledge and belief, the facts in the petition of A. G. Moore were correct.

The order that the writ issue, and the writ issued in the case of A. G. Moore was read by Mr. Manager Dunham. Mr. Merrimon then offered the affidavit

Mr. Boyden objected, upon the ground determined in a judicial way, according

window, holding up said writs in his hand menl of facts, reciting the many outrages according to every rule of law they cannot much as we were prepared for the proof alized by none of us; then will the glorious was argued before the Chief Justice at line face of this plain provision of the person said to be Col. Kirk immedisisted that this action of the Chief Justice in the matter settled it. could justify themselves in pronouncing of strong rock and founded on rock, have altered or abridged, by the Act of Assem. '70, "to secure the better protection of life same or on who he had been told was Justice and Senators, the people and their said that it was his impression the Chief become as the house of the foolish man— bly of 1869-'70, "to secure the better probuilt upon the sand—swept away like tection of life and property." The first built upon the sand—swept away like tection of life and property." The first built upon the sand—swept away like tection of life and property. The first built upon the sand—swept away like tection of life and property. The first built upon the sand—swept away like tection of life and property. The first better prosand property and pro

peachment for, 1st, Corruption or other present themselves. First, had the Legis. No principle of law, Mr. Chief Justice came to affiant was ordered to esty of her violated laws. If this be done, Justice Pearson in the case of exparte John